

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAVIER MAYSONET,)
Petitioner,)
)
v.) Civil Action No. 07-836
)
COM. OF PENNSYLVANIA,)
et al.,)
Respondents.)

Report and Recommendation

Recommendation:

It is respectfully recommended that the petition of Javier Maysonet be transferred forthwith to the United States District Court for the Eastern District of Pennsylvania.

Report:

Javier Maysonet an inmate at the State Correctional Institution at LaBelle, Pennsylvania has presented a petition for a writ of habeas corpus which he has been granted leave to prosecute in forma pauperis. In his petition, Maysonet alleges that he is presently serving a life sentence imposed following his conviction of homicide at No.3500 of 1999, in the Court of Common Pleas of Lehigh County, Pennsylvania.

It is provided in 28 U.S.C. §2241(d) that:

Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a state which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed

in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

While the petitioner is in custody in the Western District of Pennsylvania, the trial court which sentenced him is located in Lehigh County, which is located in the Eastern District of Pennsylvania. It, therefore, would appear that the interests of justice would best be served by transferring the petition to the United States District Court for the Eastern District of Pennsylvania.

Within ten (10) days after being served with a copy, any party may serve and file written objections to the report and recommendation. Any party opposing the objections shall have seven (7) days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights.

Respectfully submitted,

s/ Robert C. Mitchell,
United States Magistrate Judge

Dated: June 21, 2007